



United States
**Office of
Personnel Management**

Washington, D.C. 20415

In Reply Refer To

Your Reference

2 -

- Honorable William D. Ford
Chairman, Committee on Post Office
and Civil Service
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is in response to your request for comments from the Office of Personnel Management on H.R. 39, the "Federal Polygraph Limitation and Anti-Censorship Act of 1984." H.R. 39 would amend Chapter 73 of Title 5 of the United States Code.

OPM has government-wide responsibility for the civilian personnel security and suitability programs. Although OPM does not itself administer polygraph examinations, or require pre-publication review, nevertheless, it is charged with investigating individuals who are to have access to classified information, and with consideration of agency requests for use of the polygraph in screening applicants for appointments in the competitive service.

The use of the polygraph exams in the federal government, and its implications on the privacy and rights of employees is not a novel issue. In 1965 President Johnson directed a comprehensive review of the use of polygraph in the Executive branch, and issued a memorandum which has since been incorporated into the Federal Personnel Manual. The memorandum imposed certain restrictions on the use of the polygraph, while, at the same time, authorizing its usage in criminal and (counter) intelligence-related operations.

Unlike H.R. 39, President Johnson's memorandum recognized that agencies other than the Central Intelligence Agency and the National Security Agency had "intelligence or counter-intelligence missions directly affecting the national security." Further, unlike H.R. 39, President Johnson's memorandum recognized that certain agencies or agency components with missions similar to that of the CIA or NSA, require use of polygraph examinations for supplementary employment screening. Adequate procedural safeguards were included, and the Civil Service Commission was granted authority to prevent abuse of polygraph procedures in screening appointments in the competitive service.

Honorable William D. Ford

2

OPM, and the Civil Service Commission before it, have used that authority prudently. Although, in certain respects, President Johnson's memorandum allowed agencies a greater measure of discretion than provided either in President Reagan's National Security Decision Directive No. 84 or H.R. 39, there has not been a single complaint (filed with or brought to the attention of OPM or the Civil Service Commission) of abuse and misidentification. In the course of the last 19 years, OPM has granted approval to only 3 agencies for polygraph examinations. This approval was granted only after proper evidence that the requisite level of examining expertise existed in the agency, assurances of adequate protections against abuse or error, and guarantees of comprehensive due process protections for applicants and employees.

No evidence has been offered to demonstrate that existing employee protections are inadequate, or that agencies would fail to develop adequate safeguards against potential abuse. The enactment of the proposed bill would protect against "abuses" that do not exist, and would refute the overwhelming evidence demonstrated by scientific studies, government surveys, and "real life" experience of the extraordinary effectiveness of polygraph testing as a screening and investigative tool, when these are restricted to situations where they are warranted.

OPM is opposed to H.R. 39 because it fails to strike a responsible balance between the rights, privacy, and protection of Federal employees, and the safety and security of the nation's most sensitive secrets.

The Office of Management and Budget has advised this Agency that there is no objection to the submission of this report from the standpoint of the Administration's programs.

Sincerely,

Loretta Cornelius
Acting Director